



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 4, 2020

Ms. Elizabeth Stevens
Assistant General Counsel
Harris County District Attorney's Office
500 Jefferson Street, Suite 600
Houston, Texas 77002

OR2020-30258

Dear Ms. Stevens:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 855242 (Ref. No. 2020.03-0066).

The Harris County District Attorney's Office (the "district attorney's office") received a request for information and communications regarding a specified penal code provision during a specified time period.¹ You claim the submitted information is excepted from disclosure under sections 552.108 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

We note some of the information at issue was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2020-11743 (2020). In that ruling, we determined 1) the district attorney's office may withhold Appendix E-5 under section 552.108(a)(1) of the Government Code and, with the exception of basic

¹ The district attorney's office provides documentation showing it sought and received clarification of the information requested. See Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

² We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

information, which must be released, Appendix E-4 under section 552.108(a)(2) of the Government Code; 2) the district attorney's office may withhold the information it indicated under section 552.108(a)(4) of the Government Code; 3) the district attorney's office may withhold the information we marked under section 552.111 of the Government Code; however the draft documents we marked may only be withheld in their entirety if the district attorney's office will release them in their final forms; and 4) the district attorney's office must release the remaining information. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the district attorney's office may continue to rely on Open Records Letter No. 2020-11743 as a previous determination and withhold or release the information at issue in accordance with that ruling.³ See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we will consider your arguments for the submitted information not subject to the previous ruling.

Section 552.108(a) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must explain how and why the release of the requested information would interfere with law enforcement. See *id.* §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the remaining information relates to ongoing investigations, and release of that information would interfere with the investigation and prosecution of the cases. Based upon this representation, we conclude the release of the remaining information would interfere with the detection, investigation, or prosecution of crime. See *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the remaining information. Accordingly, the district attorney's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the district attorney's office may continue to rely on Open Records Letter No. 2020-11743 as a previous determination and withhold or release the information at issue in accordance with that ruling. The district attorney's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

³ As we are able to make this determination, we need not address your argument against disclosure of this information.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/mo

Ref: ID# 855242

Enc. Submitted documents

c: Requestor
(w/o enclosures)